

**ASSEMBLY BILL**

**No. 1205**

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**Introduced by Assembly Member Bill Berryhill**

February 18, 2011

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An act to amend Sections 4990.02, 4990.12, 4990.18, 4990.30, and 4990.38 of, and to add Chapter 5.2 (commencing with Section 2529.7.1) to Division 2 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1205, as introduced, Bill Berryhill. Certified applied behavior analysts.

Existing law provides for the licensure and regulation of various healing arts professions and vocations, including, but not limited to, marriage and family therapists, licensed educational psychologists, social workers, and licensed professional clinical counselors by the Board of Behavioral Sciences.

This bill would prohibit a person from holding himself or herself out to be a certified applied behavior analyst or a certified assistant applied behavior analyst unless licensed by the Board of Behavioral Sciences. The bill would require the board to issue a license to a person who meets certain educational requirements and passes an examination administered by, and is certified by, the Behavior Analyst Certification Board, a nonprofit corporation, or another similar entity approved by the board. The bill would describe the services that may be provided by a certified applied behavior analyst and a certified assistant applied behavior analyst, subject to specified supervision. The bill would authorize the board to regulate these licensees and to enforce these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 5.2 (commencing with Section 2529.7.1) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 5.2. CERTIFIED APPLIED BEHAVIOR ANALYSTS

2529.7.1. The Board of Behavioral Sciences shall administer and enforce the provisions of this chapter. For the purposes of this chapter, it shall be designated as the board.

2529.7.2. No person shall hold himself or herself out to be a certified applied behavior analyst unless the person is licensed by the board pursuant to this chapter.

2529.7.3. The board shall issue a certified applied behavior analyst license to an applicant who meets all of the following requirements:

(a) An applicant for examination shall, at a minimum, meet the following requirements:

(1) Possess a baccalaureate and a master's degree from any of the following:

(A) A United States or Canadian institution of higher education fully or provisionally accredited by a regional, state, provincial, or national accrediting body.

(B) An institution of higher education located outside the United States or Canada that, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training equivalent to the standards of training of those institutions accredited in the United States.

(2) Complete 225 classroom hours of related graduate level instruction.

(3) Complete 1,500 hours of supervised independent fieldwork under the supervision of a certified applied behavior analyst or initially, until January 1, 2013, under the supervision of a person who otherwise meets all of the requirements for certification.

(A) An applicant must be supervised at least 75 hours.

1 (B) Appropriate supervised independent fieldwork activities  
2 include all of the following:

3 (i) Conducting assessment activities related to the need for  
4 behavioral interventions.

5 (ii) Designing, implementing, and monitoring behavior analysis  
6 programs for clients.

7 (iii) Overseeing the implementation of behavior analysis  
8 programs by others.

9 (iv) Other activities normally performed by a behavior analyst  
10 that are directly related to behavior analysis, such as, but not  
11 limited to, attending planning meetings regarding the behavior  
12 analysis program, researching the literature related to the program,  
13 and talking to individuals about the program.

14 (b) An applicant for examination may, subject to approval by  
15 the board, take the examination if the applicant can demonstrate  
16 the equivalent completion of the requirements in subdivision (a).

17 (c) Has successfully passed an examination administered by the  
18 Behavior Analyst Certification Board, a nonprofit corporation  
19 pursuant to Section 501(c)(3) of the Internal Revenue Code, or  
20 another similar entity approved by the board.

21 (d) Is certified by the Behavior Analyst Certification Board, a  
22 nonprofit corporation pursuant to Section 501(c)(3) of the Internal  
23 Revenue Code, or another similar entity approved by the board.

24 2529.7.4. No person shall hold himself or herself out to be a  
25 certified assistant applied behavior analyst unless the person is  
26 licensed by the board pursuant to this chapter.

27 2529.7.5. The board shall issue a certified assistant applied  
28 behavior analyst license to an applicant who meets all of the  
29 following requirements:

30 (a) An applicant for examination shall, at a minimum, meet the  
31 following requirements:

32 (1) Possess a baccalaureate and a master's degree from any of  
33 the following:

34 (A) A United States or Canadian institution of higher education  
35 fully or provisionally accredited by a regional, state, provincial,  
36 or national accrediting body.

37 (B) An institution of higher education located outside the United  
38 States or Canada that, at the time the applicant was enrolled and  
39 at the time the applicant graduated, maintained a standard of

1 training equivalent to the standards of training of those institutions  
2 accredited in the United States.

3 (2) Complete 135 classroom hours of related instruction through  
4 any of the following:

5 (A) College or university courses in behavior analysis, that are  
6 taken from an institution that meets either of the requirements  
7 described in paragraph (1) of subdivision (b).

8 (B) Noncollege or university courses offered by an educational  
9 institution and approved for this purpose.

10 (C) A combination of college or university courses.

11 (3) Complete 1,000 hours of supervised independent fieldwork  
12 under the supervision of a certified applied behavior analyst or  
13 initially, until January 1, 2013, under the supervision of a person  
14 who otherwise meets all of the requirements for certification.

15 (A) An applicant must be supervised at least 50 hours.

16 (B) Appropriate supervised independent fieldwork activities  
17 include all of the following:

18 (i) Conducting assessment activities related to the need for  
19 behavioral interventions.

20 (ii) Designing, implementing, and monitoring behavior analysis  
21 programs for clients.

22 (iii) Overseeing the implementation of behavior analysis  
23 programs by others.

24 (iv) Other activities normally performed by a behavior analyst  
25 that are directly related to behavior analysis, such as, but not  
26 limited to, attending planning meetings regarding the behavior  
27 analysis program, researching the literature related to the program,  
28 and talking to individuals about the program.

29 (b) An applicant for examination may, subject to approval by  
30 the board, take the examination if the applicant can demonstrate  
31 the equivalent completion of the requirements in subdivision (a).

32 (c) Has successfully passed an examination administered by the  
33 Behavior Analyst Certification Board, a nonprofit corporation  
34 pursuant to Section 501(c)(3) of the Internal Revenue Code, or  
35 another similar entity approved by the board.

36 (d) Is certified by the Behavior Analyst Certification Board, a  
37 nonprofit corporation pursuant to Section 501(c)(3) of the Internal  
38 Revenue Code, or another similar entity approved by the board.

39 2529.7.6. (a) A certified applied behavior analyst may provide  
40 all of the following services:

1 (1) Design, implement, and evaluate systematic instructional  
2 and environmental modifications to produce socially significant  
3 improvements in human behavior of individuals or groups.

4 (2) Apply principles, methods, and procedures of operant and  
5 responding learning.

6 (3) Utilize contextual factors, establishing operations, antecedent  
7 stimuli, position reinforcement, and other consequences to help  
8 people develop new behaviors, increase or decrease existing  
9 behaviors, and emit behaviors under specific environmental  
10 conditions.

11 (4) Assess functional relations between behavioral and  
12 environmental factors.

13 (5) Apply interventions based on scientific research and the  
14 direct observation and measurement of behavior and environment.

15 (6) The practice of applied behavior analysis excludes the  
16 practice of psychological testing, neuropsychology, psychotherapy,  
17 cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, and  
18 long-term counseling.

19 (b) A certified applied assistant behavior analyst may provide  
20 the services in subdivision (a) under the supervision of a certified  
21 applied behavior analyst.

22 SEC. 2. Section 4990.02 of the Business and Professions Code  
23 is amended to read:

24 4990.02. "Board," as used in this chapter, *Chapter 5.2*  
25 (*commencing with Section 2529.7.1*), Chapter 13 (*commencing*  
26 *with Section 4980*), Chapter 13.5 (*commencing with Section*  
27 *4989.10*), Chapter 14 (*commencing with Section 4991*), and  
28 Chapter 16 (*commencing with Section 4999.10*) means the Board  
29 of Behavioral Sciences.

30 SEC. 3. Section 4990.12 of the Business and Professions Code  
31 is amended to read:

32 4990.12. The duty of administering and enforcing this chapter,  
33 *Chapter 5.2 (commencing with Section 2529.7.1)*, Chapter 13  
34 (*commencing with Section 4980*), Chapter 13.5 (*commencing with*  
35 *Section 4989.10*), Chapter 14 (*commencing with Section 4991*),  
36 and Chapter 16 (*commencing with Section 4999.10*) is vested in  
37 the board and the executive officer subject to, and under the  
38 direction of, the board. In the performance of this duty, the board  
39 and the executive officer have all the powers and are subject to all  
40 the responsibilities vested in, and imposed upon, the head of a

1 department by Chapter 2 (commencing with Section 11150) of  
2 Part 1 of Division 3 of Title 2 of the Government Code.

3 SEC. 4. Section 4990.18 of the Business and Professions Code  
4 is amended to read:

5 4990.18. It is the intent of the Legislature that the board employ  
6 its resources for each and all of the following functions:

7 (a) The licensure of *certified applied behavior analysts*, *certified*  
8 *assistant applied behavior analysts*, marriage and family therapists,  
9 clinical social workers, professional clinical counselors, and  
10 educational psychologists.

11 (b) The development and administration of licensure  
12 examinations and examination procedures consistent with  
13 prevailing standards for the validation and use of licensing and  
14 certification tests. Examinations shall measure knowledge and  
15 abilities demonstrably important to the safe, effective practice of  
16 the profession.

17 (c) Enforcement of laws designed to protect the public from  
18 incompetent, unethical, or unprofessional practitioners.

19 (d) Consumer education.

20 SEC. 5. Section 4990.30 of the Business and Professions Code  
21 is amended to read:

22 4990.30. (a) A licensed marriage and family therapist, marriage  
23 and family therapist intern, licensed clinical social worker,  
24 associate clinical social worker, licensed professional clinical  
25 counselor, professional clinical counselor intern, ~~or~~ licensed  
26 educational psychologist, *certified applied behavior analyst*, *or*  
27 *certified assistant applied behavior analyst* whose license or  
28 registration has been revoked, suspended, or placed on probation,  
29 may petition the board for reinstatement or modification of the  
30 penalty, including modification or termination of probation. The  
31 petition shall be on a form provided by the board and shall state  
32 any facts and information as may be required by the board  
33 including, but not limited to, proof of compliance with the terms  
34 and conditions of the underlying disciplinary order. The petition  
35 shall be verified by the petitioner who shall file an original and  
36 sufficient copies of the petition, together with any supporting  
37 documents, for the members of the board, the administrative law  
38 judge, and the Attorney General.

39 (b) The licensee or registrant may file the petition on or after  
40 the expiration of the following timeframes, each of which

1 commences on the effective date of the decision ordering the  
2 disciplinary action or, if the order of the board, or any portion of  
3 it, is stayed by the board itself or by the superior court, from the  
4 date the disciplinary action is actually implemented in its entirety:

5 (1) Three years for reinstatement of a license or registration that  
6 was revoked for unprofessional conduct, except that the board  
7 may, in its sole discretion, specify in its revocation order that a  
8 petition for reinstatement may be filed after two years.

9 (2) Two years for early termination of any probation period of  
10 three years or more.

11 (3) One year for modification of a condition, reinstatement of  
12 a license or registration revoked for mental or physical illness, or  
13 termination of probation of less than three years.

14 (c) The petition may be heard by the board itself or the board  
15 may assign the petition to an administrative law judge pursuant to  
16 Section 11512 of the Government Code.

17 (d) The petitioner may request that the board schedule the  
18 hearing on the petition for a board meeting at a specific city where  
19 the board regularly meets.

20 (e) The petitioner and the Attorney General shall be given timely  
21 notice by letter of the time and place of the hearing on the petition  
22 and an opportunity to present both oral and documentary evidence  
23 and argument to the board or the administrative law judge.

24 (f) The petitioner shall at all times have the burden of production  
25 and proof to establish by clear and convincing evidence that he or  
26 she is entitled to the relief sought in the petition.

27 (g) The board, when it is hearing the petition itself, or an  
28 administrative law judge sitting for the board, may consider all  
29 activities of the petitioner since the disciplinary action was taken,  
30 the offense for which the petitioner was disciplined, the petitioner's  
31 activities during the time his or her license or registration was in  
32 good standing, and the petitioner's rehabilitative efforts, general  
33 reputation for truth, and professional ability.

34 (h) The hearing may be continued from time to time as the board  
35 or the administrative law judge deems appropriate but in no case  
36 may the hearing on the petition be delayed more than 180 days  
37 from its filing without the consent of the petitioner.

38 (i) The board itself, or the administrative law judge if one is  
39 designated by the board, shall hear the petition and shall prepare  
40 a written decision setting forth the reasons supporting the decision.

1 In a decision granting a petition reinstating a license or modifying  
2 a penalty, the board itself, or the administrative law judge, may  
3 impose any terms and conditions that the agency deems reasonably  
4 appropriate, including those set forth in Sections 823 and 4990.40.  
5 If a petition is heard by an administrative law judge sitting alone,  
6 the administrative law judge shall prepare a proposed decision and  
7 submit it to the board. The board may take action with respect to  
8 the proposed decision and petition as it deems appropriate.

9 (j) The petitioner shall pay a fingerprinting fee and provide a  
10 current set of his or her fingerprints to the board. The petitioner  
11 shall execute a form authorizing release to the board or its designee,  
12 of all information concerning the petitioner's current physical and  
13 mental condition. Information provided to the board pursuant to  
14 the release shall be confidential and shall not be subject to  
15 discovery or subpoena in any other proceeding, and shall not be  
16 admissible in any action, other than before the board, to determine  
17 the petitioner's fitness to practice as required by Section 822.

18 (k) The board may delegate to its executive officer authority to  
19 order investigation of the contents of the petition.

20 (l) No petition shall be considered while the petitioner is under  
21 sentence for any criminal offense, including any period during  
22 which the petitioner is on court-imposed probation or parole or  
23 the petitioner is required to register pursuant to Section 290 of the  
24 Penal Code. No petition shall be considered while there is an  
25 accusation or petition to revoke probation pending against the  
26 petitioner.

27 (m) Except in those cases where the petitioner has been  
28 disciplined for violation of Section 822, the board may in its  
29 discretion deny without hearing or argument any petition that is  
30 filed pursuant to this section within a period of two years from the  
31 effective date of a prior decision following a hearing under this  
32 section.

33 SEC. 6. Section 4990.38 of the Business and Professions Code  
34 is amended to read:

35 4990.38. The board may deny an application or may suspend  
36 or revoke a license or registration issued under the chapters it  
37 administers and enforces for any disciplinary action imposed by  
38 another state or territory or possession of the United States, or by  
39 a governmental agency on a license, certificate or registration to  
40 practice marriage and family therapy, clinical social work,



1 educational psychology, professional clinical counseling, *applied*  
2 *behavior analysis*, or any other healing art. The disciplinary action,  
3 which may include denial of licensure or revocation or suspension  
4 of the license or imposition of restrictions on it, constitutes  
5 unprofessional conduct. A certified copy of the disciplinary action  
6 decision or judgment shall be conclusive evidence of that action.

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